

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.32 OF 2007

Union Bank of India .. Petitioner.

V/s.

C.N.Babar & Anr. .. Respondents.

Shri.A.D.Shetty with Ms.R.K.Joshi for the petitioner.

None for the respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 15TH JANUARY, 2007.

P.C.:

. This petition under Article 226 of the Constitution of India is directed against the part-I Award. The learned Presiding Officer of the C.G.I.T. has in the impugned order framed two points for his consideration, namely, whether the Enquiry is just and fair and in conformity with the principles of natural justice and whether the findings of the Enquiry Officer are perverse.

. After perusing the impugned award with the assistance of Shri.Shetty, I am of the view that no interference therein is required in my discretionary and equitable jurisdiction under Article 226 of the Constitution of India. The learned Presiding Officer after framing the points has referred to the materials on record for his prima-facie conclusion about the perversity of the findings so also on the earlier point about fairness of the enquiry.

. Three reasons are assigned by him. Firstly, the delinquent employee was not given any opportunity to cross examine the witnesses of the management. In as much as, the opportunity given to cross examine about 4 to 5 witnesses in one day was nothing but completion of a formality. The opportunity to defend also was denied by turning down the request for an adjournment by about three days. Lastly, the Enquiry Officer Mr.K.D.Sawant concluded the enquiry and within one and half month of the conclusion of the same, earned a promotion and became the Disciplinary Authority. He imposed the final punishment.

. In my view, such being the factual position, the ultimate conclusion of the Presiding Officer cannot be faulted.

. The learned Presiding Officer perused the records which were produced before him. In my view, reliance upon the letter of the delinquent admitting the guilt (letters dated 15th & 17th February, 2003) can still be placed and it is not as if the learned Judge's findings would conclude the matter.

. The tribunal afforded an opportunity to the petitioner-Bank to prove the charges afresh by leading evidence, which could always be availed of. Needless to state that the learned Presiding Officer not to be influenced by his observations in the impugned order but to decide the matter on merits and in accordance with law.

. With these observations, the petition is summarily dismissed.

(S.C.Dharmadhikari, J.)